

Chapter 1

Introduction

Model Self-Help Center Pilot Program

In 2002, the Judicial Council of California, Administrative Office of the Courts (AOC), introduced the Model Self-Help Center Pilot Program, which provides funding for five new self-help projects designed to address difficulties faced by self-represented litigants in navigating the court system. Operating in seven California counties, these projects are intended to provide examples of innovative practices for future self-help services in counties across California. The demonstration project aims to increase the effectiveness and the reach of court-based self-help programs, as well as to increase the efficiency and effectiveness of the courts in handling cases involving self-represented litigants.

To start the program, the AOC asked the courts for applications to implement five models that would respond to three specific challenges that California's courts face: providing self-represented litigants with access to more legal information, assisting a large population of people with limited English proficiency; and overcoming geographic and transportation barriers. The five models were built around five core tasks:

- Providing comprehensive self-help services in small rural courts;
- Providing services to a Spanish-speaking population;
- Providing services to a population speaking a range of languages;
- Developing and implementing technology for self-represented litigants; and
- Coordinating and supporting an array of services in a large urban community.

Proposals from around the state were submitted, and five pilot projects were selected, one to implement each of the models. The five demonstration projects awarded funding are described below.

Butte/Glenn/Tehama. This is a regional project designed to explore how counties can work together to share self-help resources effectively and to provide legal information and education to self-represented litigants in rural areas, where they are spread over large distances and have limited access to community legal services.

Fresno. This is a Spanish-language project exploring ways to provide services for a primarily Spanish-speaking population.

San Francisco. This is a multilingual project testing methods to provide services to litigants who speak a variety of languages.

Contra Costa. This is a technology project developed to assess the potential of the Internet to assist individuals without requiring them to come to the courthouse and to experiment with use of videoconferencing services to serve multiple locations.

Los Angeles. This project is designed to see how a large urban jurisdiction can coordinate the various independent existing self-help programs operated by the court and by legal services.

The pilot centers were selected after a careful review of 21 proposals. Each of the projects received the same amount of funding, \$166,400 per year, and each had to be supervised by an attorney. No single project was expected to provide an all-inclusive program for serving self-represented litigants. Each of the programs had to be new rather than an expansion of ongoing services so that the development of the centers could be studied and data available for analysis would be comparable. Projects agreed to participate in an extensive evaluation of their development and success in meeting their objectives to help assess the best strategies and techniques for addressing the identified challenges.

Berkeley Policy Associates (BPA), in partnership with Northwest Professional Consortium (NPC) Research, conducted an evaluation of the five self-help pilot projects between the fall of 2002 and the summer of 2004. Their work was supplemented by additional research and analysis by AOC staff. The goal of the evaluation was to document the effectiveness of the five models in improving the experiences and outcomes of self-represented litigants in the California court system. The results of this evaluation are described in this report.

Self-Represented Litigants in California Courtrooms

Increasing numbers of litigants in California courtrooms represent themselves rather than hire an attorney to represent them. Rates of self-represented litigants are high in several areas of law in California. For example, an average of 34 percent of unlawful detainer petitioners and more than 90 percent of unlawful detainer defendants are self-represented. More than 20 percent of probate petitioners are self-represented at the time of filing. Two-thirds of family law petitioners are self-represented at the time of filing, and this rate appears to be even higher for large counties.¹

These self-represented litigants face challenges at every step of the court process, from filling out and filing initial court forms to understanding and acting on court orders. The court faces challenges in assisting these litigants and incorporating them into the justice system while maintaining a functional level of efficiency, high standards of equality under the law, and adequate access to justice for all. The difficulties experienced by self-represented litigants grow significantly when they do not speak English, especially when interpretation resources are limited or unavailable, as is the case in many courts.

¹ Judicial Council of California, *Report of the Task Force on Self-Represented Litigants and Statewide Action Plan for Serving Self-Represented Litigants* (February 2004).

Barriers Faced by Self-Represented Litigants

Although judicial processes and the courtroom experience itself can be intimidating to all, this anxiety may be heightened when a litigant enters the system without the help of an attorney. The legal system relies heavily on proper terminology, etiquette, and often opaque, mandatory procedures. Self-represented litigants often lack adequate preparation and familiarity with the process. Once in court, if not before, litigants encounter legal terminology with which they may not be familiar. According to interviews conducted for this evaluation, it is not uncommon for self-represented litigants to have difficulty following through on legal assistance they receive, and as a result, they either get stuck at a particular step in the process or give up entirely. Self-represented litigants face numerous barriers in their attempts to access the justice system. These include:

- Self-represented litigants often lack knowledge about how to initiate a legal action. They may not know where to go first or even what questions to ask. Court officials interviewed for this evaluation stated that this is a major barrier, and it is likely that many potential cases are never brought because would-be litigants do not know where to begin.
- Self-represented litigants lack familiarity with legal terms used in mandatory forms and hearings. Even among native-English speakers, legal terminology can be confusing and off-putting. Litigants often need legal terms explained to them in plain English.
- Self-represented litigants are often unable to accurately complete mandatory forms due to the complicated nature of the forms, limited English proficiency, or low educational attainment.
- Respondents interviewed for the evaluation report that self-represented litigants often misunderstand procedural requirements, especially those regarding properly serving or giving notice to the other party.
- Finally, self-represented litigants lack the familiarity with court procedures needed to fully follow or comprehend court proceedings, resulting in misunderstandings about orders given in court or uncertainty about the next step in the process.

Difficulties facing self-represented litigants increase significantly for non-English speakers. The California Constitution mandates that court proceedings be conducted in English exclusively. Different courts have different rules regarding interpreters, although in all courts, interpreters are provided for criminal and domestic violence cases.² Some courts have more extensive protocols authorizing court-appointed interpreters for specific

² Court-appointed interpreters are not typically available for noncriminal cases, including family or other civil law cases. See *Jara v. Municipal Court for San Antonio Judicial Dist.* (1978) 21 Cal.3d 181. Under California Evidence Code Section 755, the court “shall provide” an interpreter in domestic violence, parental rights, and divorce proceedings when one party does not speak English and when a protective order has been sought or is being sought.

types of cases, but the range of interpretation services offered is driven in large part by the availability of funding as well as lack of certified interpreters. As a result of the lack of interpreter services in most civil cases, it is usually the litigant's responsibility to bring an interpreter. Even if they have some proficiency in English, some litigants may find it difficult to speak or understand English when under the stress of participating in the court process. According to a bench officer interviewed for this evaluation, "whatever English facility [non-English-speaking self-represented litigants] have deserts them. They are upset to be there."

Consequences for Court Efficiency

In February 2004, the Judicial Council of California approved its *Statewide Action Plan for Serving Self-Represented Litigants* in response to the challenges posed by the increasing volume of self-representation.³ Courts are designed to process cases in which litigants have legal representation, and the increasing level of self-representation has had a profound impact on the court system. Furthermore, budgetary constraints exacerbate these challenges by limiting resources that might otherwise be available to assist self-represented litigants. According to the Action Plan and data from interviews conducted for the evaluation, the increasing number of self-represented litigants poses the following administrative and management challenges for the court:

- Cases may take longer to resolve because of continuances ordered when self-represented litigants do not have sufficient information or have not followed procedures properly;
- There is a lack of sufficient or comprehensive resources to which self-represented litigants may be referred for assistance, often leaving court staff to try to meet litigants' needs for information and help;
- Effectively presiding over a calendar of self-represented litigants requires greater resources than is necessary for a calendar of litigants with legal representation; and
- Many self-represented litigants have limited English proficiency, and court resources to assist them are inadequate. Court services and materials are often not available in languages other than English.

Services for Self-Represented Litigants

Although resources are limited, self-represented litigants in California courts have a number of different ways to obtain assistance in preparing for, presenting, and following through on their cases. Depending on the type of case, legal assistance may be available from advocacy groups, the Internet, public and law libraries, community centers, and the courts themselves. The availability of self-help resources for litigants varies considerably from court to court across California. Two formal resources for self-represented litigants

³ Judicial Council of California, *Report of the Task Force on Self-Represented Litigants and Statewide Action Plan for Serving Self-Represented Litigants* (February 2004).

are available in every county: the family law facilitator and some type of a small claims advisory service. Those services, along with additional programs available in some counties, are described below.

Each county has an Office of the Family Law Facilitator. These facilitators are attorneys with experience in family law who assist self-represented litigants with cases involving child support and spousal support.⁴ Many courts have provided supplemental funding to allow the facilitators to provide additional family law assistance. Services may be provided in a variety of ways.⁵ To provide assistance with other types of family law cases, pilot Family Law Information Centers were established in conjunction with the Office of the Family Law Facilitator in Los Angeles, Fresno, and Sutter counties. These Family Law Information Centers can provide assistance with dissolution of marriage, paternity, child support enforcement, domestic violence prevention, and other family law matters.⁶

In addition to family law services, counties are required by law to provide assistance with small claims cases, and in many counties, litigants receive assistance from a small claims advisor. This person provides information on procedures for filing a claim. Depending on the volume of cases filed in small claims court, counties may provide services via recorded messages, literature available in the court, or individual personal services.⁷

In more than half of California counties, courts have self-help centers that offer a wider range of services to self-represented litigants in a variety of different cases.⁸ The availability and scope of services, along with the types of cases and issues covered, vary across the counties, with the range of services driven in large part by available funding. The courts themselves operate most self-help centers, but sometimes, centers are sponsored by the court in cooperation with other organizations, such as legal services organizations, county bar associations, and county human services agencies.

In addition to these formal resources available to self-represented litigants, court clerks are often called upon to assist customers. Clerks are often the first point of contact for anyone needing help at the courthouse. Court clerks and their staff assist customers, including lawyers and self-represented litigants, with the filing of legal papers, provide court forms, explain court rules and schedules, and offer general information about how to locate legal representation and obtain legal assistance. However, the level of assistance available from clerks varies significantly throughout the state and even between clerks based upon their training and experience in the court.

⁴ California Family Code, section 10000.

⁵ F. Harrison, D. Chase, and L. T. Surh, "California's Family Law Facilitator Program: A New Paradigm for the Courts" (2000) 2 *Journal of the Center for Families, Children & the Courts*, pp. 61-97.

⁶ D. Chase, B. Hough, and C. Huffine, Judicial Council of California, *A Report to the California Legislature: Family Law Information Centers: An Evaluation of Three Pilot Programs* (March 2003).

⁷ California Department of Consumer Affairs, "Basic Considerations and Questions: What is Small Claims Court?" http://www.dca.ca.gov/legal/small_claims/basic_info.htm (accessed June 28, 2004).

⁸ Judicial Council of California, *Report of the Task Force on Self-Represented Litigants and Statewide Action Plan for Serving Self-Represented Litigants* (February 2004).

The California Courts Web site, maintained by the AOC, has an online self-help center (<http://www.courtinfo.ca.gov/selfhelp>) that provides information and assistance with a range of cases and refers visitors to local courts and other legal service providers for further assistance. The information on the Web site is presented in both English and Spanish. Some materials are also available in Vietnamese, Chinese, and Korean.

Systemic Review and Planning

In the spring of 2001, four regional conferences were held in California to discuss how courts and communities could work together to address the needs of self-represented litigants. More than 600 people attended these conferences, representing 57 out of 58 of California's counties. In the course of the conferences, courts began to develop local action plans to assist self-represented litigants. To support the further development of those plans and active community involvement in the planning, the Judicial Council made \$300,000 of Trial Court Improvement Funds available in 2000–2001 to assist courts in developing their action plans. An additional \$300,000 has been offered in each successive year to assist courts that had not yet received planning funds and to provide funding to begin implementation of plans developed by the courts.

To date, 53 courts serving more than 99 percent of California's population have participated in this action planning process. As part of that process, the courts assessed the barriers faced by self-represented litigants with respect to access to justice. Three basic themes emerged from the majority of these local plans.⁹

Access to legal information. Lack of access to legal information for self-represented litigants was the central theme in all the action plans that were submitted. Smaller courts expressed this concern more frequently and also reported a serious shortage of community resources for self-represented litigants, particularly legal aid services. In the large counties, the lack of access to legal information seemed to be attributed more frequently to the enormous numbers of people needing services compared with the extent of the available services and to language barriers.

Language access. All of the action plans mentioned the need for language access. The non-English language mentioned most frequently was Spanish.

Geographic/distance access. Nearly 60 percent of the local action plans reported that self-represented litigants had serious problems getting to locations where services are available. Most of the large and medium-size courts proposed geographic solutions such as outpost facilities or mobile vans. Smaller courts tended to rely more on technological solutions such as telephone help lines, videoconferencing, and Web sites.

⁹ D. Chase and B. Hough, Judicial Council of California, *A Report and Analysis of Action Plans Throughout California: Integrating Services for Self-Represented Litigants Into the Court System* (June 2003).

Many of the courts that received grants to implement the five pilot self-help centers had actively participated in this planning process. That work became the basis for thoughtful proposals and implementation efforts, both involving a tremendous amount of collaboration with the community.

These local plans were used to develop the *Statewide Action Plan for Serving Self-Represented Litigants*, approved by the Judicial Council in February 2004. It was written by the Judicial Council's Task Force on Self-Represented Litigants, appointed by Chief Justice Ronald M. George and chaired by Associate Justice Kathleen O'Leary. The task force was composed of a diverse group of individuals from throughout the state, representing the judiciary, bar, legal services, county government, court-based self-help center staff, law librarians, and the public. In addition to studying the plans developed by the trial courts, the task force consulted with Judicial Council Advisory Committees on specific concerns and with experts in serving self-represented litigants.

The task force identified a unity of interest between the courts and the public with respect to assistance for self-represented litigants. Lack of legal assistance was clearly identified as an enormous barrier for the public, and the task force recognized that it also represents a serious structural gap for the courts. Its report makes it clear that managing cases involving self-represented litigants is routine business at every level of court operations—from filing through calendaring, records management, and courtroom hearings. The report suggests that as courts plan during this period of fiscal austerity, attention to a realistic strategy for handling these cases will be imperative to achieve net savings. To increase access to justice for the public and to enhance the court's ability to efficiently handle cases in which litigants are self-represented, the task force made the following key recommendations.

1. Court-based, staffed self-help centers, supervised by attorneys, are the optimum way for courts to facilitate the timely and cost-effective processing of cases involving self-represented litigants, to increase access to the courts, and to improve delivery of justice to the public.
2. For the efficient operation of today's courts, well-designed strategies to serve self-represented litigants and to effectively manage their cases at all stages must be incorporated and budgeted as core court functions.
3. Partnerships between the courts and other governmental and community-based legal and social service organizations are critical to providing the comprehensive services required for success.

This evaluation supports the recommendations of the task force and suggests ways to effectively respond to the needs of self-represented litigants.

Evaluation Design

The evaluation design was developed collaboratively by the AOC, BPA, NPC, and staff of the self-help pilot projects, with input from members of an Evaluation Advisory Board (see Appendix A for a list of members). The goals of the evaluation included documenting the experiences of self-represented litigants, describing the scope and nature of program services, documenting the startup of the self-help programs as well as their progress, and measuring the effects of these programs on outcomes for self-represented litigants and the courts. The study design uses the following research methods to address these goals.

Site visits. Researchers from BPA and NPC conducted two rounds of site visits to each of the five demonstration projects, which included in-depth interviews with project staff and other stakeholders. Visits were conducted in Spring 2003 and again in Spring 2004. Those interviewed were selected because they were intimately involved in the operation and design of the centers or because they interact personally with self-represented litigants. These interviews provided data on the implementation and operation of the centers, as well as qualitative data on customer barriers, litigant outcomes, and court efficiency outcomes.

Intake data. Customers who visited the centers were asked to complete intake forms that captured customer demographic information, including questions about their experiences with seeking legal representation. Each customer was asked to complete one intake form for a particular case, regardless of the number of times he or she visited the center. According to program staff, some customers of the self-help centers did not complete these forms due to low reading/writing skills, low English or Spanish proficiency, or anxiety about how the data would be used. The bulk of these data were collected between March and December 2003, although intake data also were collected in March 2004 to capture program activities toward the end of the pilot project funding. In Contra Costa County, a “pop-up” form asked Web site users for basic demographic information between February and October 2004.

Service tracking data. Center staff members were asked to complete service tracking forms describing the service provided for each customer they saw. These forms were completed for customers served between March and December 2003 and then again in March 2004 to capture program activities toward the end of the pilot project funding. In addition, center staff completed forms on workshops held at their centers in March 2004 to document the number of workshops, attendance, topic, and service delivery method. In Contra Costa County, a “pop-up” form asked Web site users for information about their use of the Web site. Along with the intake forms, these data provided information relevant to litigant outcomes, as well as descriptive data on self-help customers and the volume of customers served by each center.

Court file review. AOC staff reviewed court records involving self-represented litigants in May and June 2004 to document the effects of self-help center implementation on

court efficiency, including filings of court forms, continuances, and court orders. The reviews were completed for a sample of cases in which at least one party accessed services at the self-help centers and also a sample of cases in which none of the litigants used the pilot self-help centers.

Post-hearing interviews. Researchers from BPA and NPC conducted two rounds of interviews with self-represented litigants: in Spring 2003 and Spring 2004. The purpose of this evaluation component was to describe the experiences and preparation of self-represented litigants and to capture their assessment of their courtroom experience as well as their understanding of the case and the process. Results of this evaluation component are also discussed in detail in Chapter 7.

Customer satisfaction surveys. During a two-week snapshot period in May 2004, AOC and program staff distributed customer satisfaction surveys to drop-in and workshop customers to assess the helpfulness of services provided by the programs.

A different research design was employed for the Los Angeles County project because its program design, goals, and activities were different from those at the four other self-help pilot sites. This design consisted of three primary activities: site visits, monthly activity logs, and provider telephone surveys.

Although they were not part of the original evaluation design, several other data sources were consulted to provide background information or complement research findings, including quarterly progress reports submitted to the AOC by center directors, structured writing exercises completed by center directors, project proposals, project invoices, notes from conference calls and meetings of all pilot project staff, review of Web tracking data and user testing for the Contra Costa Web site, other evaluations of self-help programs, U.S. Census data on county population, and Judicial Branch Statistical Information System (JBSIS) data for background information on court filings.

These components and their limitations are described in more detail in Appendix B. Data were collected between March 2003 and November 2004.

About this Report

This report presents the results of the evaluation of the five pilot projects. Chapters 2 through 6 highlight the accomplishments and challenges of each of the five projects, Chapter 7 explores findings from the post-hearing interviews and detailed analysis of the customer satisfaction data across all sites, and Chapter 8 discusses the lessons learned across all project sites and offers recommendations for future self-help centers. Chapter 9 describes lessons learned from the evaluation process and directions for future research.

